

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CASTILLO GRAND, LLC,

Plaintiff,

- against -

SHERATON OPERATING CORPORATION,

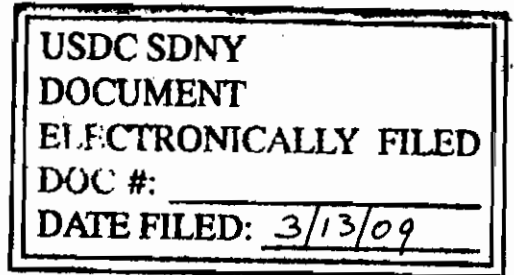
Defendant.
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ROBERT P. PATTERSON, JR., U.S.D.J.

By letter dated March 6, 2009, Defendant Sheraton Operating Corporation (Sheraton) requests that the Court order the Plaintiff and counterclaim Defendant Castillo Grand LLC (Castillo) to respond to Sheraton's Third Set of Document Requests and Third Set of Interrogatories both dated December 31, 2008, which Sheraton asserts relates to its May 27, 2008 notice of termination by Sheraton of the hotel management contract between Castillo as owner and Sheraton as operator. By letter dated March 10, 2009, Plaintiff Castillo Grand LLC (Castillo) asserts the Defendant's request is untimely because the deadline to complete discovery passed over a year ago (March 2008) and is violative of an oral order of Judge Karas granting permission to conduct limited discovery relating to wrongful termination of the Management Contract by Sheraton.

Background

On July 8, 2008, Castillo Grand filed an Amended Complaint to include the claims of improper termination of the management contract and on July 28, 2008, Sheraton filed an Amended Answer and counterclaims pursuant to which Sheraton seeks



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ORDER

to recover a \$3 million Project License Fee and the present value of the net income on lost management fees due to Castillo's alleged breach of contract. In its letter of March 10, 2009, Castillo maintains that Sheraton should be bound by the breadth of its discovery requests in Sheraton's letter of June 26, 2008 which Judge Karas granted at a pre-motion telephone conference (at p. 2).

At a court conference on November 17, 2008, after this case had been transferred from the White Plains Courthouse to this Judge, the parties agreed that a briefing schedule on Sheraton's proposed summary judgment motion on the issues in the original complaint had to be set and that the date for conclusion of the termination-related discovery also had to be scheduled. (Tr. at 6-7) The Court then set an end date of January 16, 2009 for discovery relating to the termination (Tr. at 9-10) and a briefing schedule on the summary judgment motion (Tr. at 14-17). On December 12, 2008, the Court extended the discovery cutoff dates pursuant to stipulation of the parties to January 30, 2009.¹ (See Sheraton's letter dated March 6, 2009, Exhibit F.) On December 31, 2008, Sheraton served its Third Set of Document Requests and Interrogatories

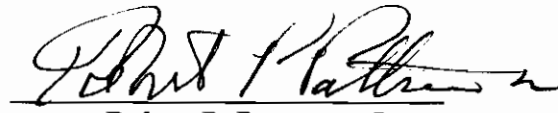
Castillo wrote to Sheraton on January 5, 2009 protesting Sheraton's Discovery Requests (Castillo's March 10, 2009 letter, Ex. D). After receiving a responsive letter from Sheraton on January 12, 2009 stating that Sheraton was standing by its Discovery Requests, Castillo did not respond and did not move to quash; nor does Castillo's letter of March 10, 2009 state any objection to the scope of any one of Sheraton's Interrogatories or Requests for Documents or provide the Court with the exact language used by

¹ On February 5, 2009, the Court further extended the cutoff discovery date to March 31, 2009 pursuant to the stipulation by the parties. (*id.* at Exh. G.)

Judge Karas in his order allowing limited discovery. Under these circumstances, it is ordered that the Plaintiff must respond to Defendants Third Set of Interrogatories and Third Set of Document Requests by March 24, 2009.

SO ORDERED.

Dated: New York, New York
March 13, 2009



Robert P. Patterson, Jr.
U.S.D.J.

Copies of this Order sent to:

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